

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LEVI HUEBNER on behalf of himself and all
other similarly situated consumers,

Case: 14-cv-6046 (BMC)

Plaintiff

-against-

MIDLAND CREDIT MANAGEMENT, INC.,
and MIDLAND FUNDING LLC,

Defendants.

SECOND AMENDED NOTICE OF APPEAL

Notice is hereby given that plaintiff counsels POLTORAK PC and ELIE C. POLTORAK hereby appeals to the United States Court of Appeals for the Second Circuit from the Clerk's Judgment (dismissing this action) and the Memorandum Decision & Order (granting summary judgment and denying class certification) entered in this action on June 6, 2016; included in this appeal, each and every order the District Court made in this action, including as follows:

1. Order to show cause, entered October 16, 2014 (seeking to dismiss complaint for citing case law);
2. Scheduling order, entered November 4, 2014 (mandatory requirement of joint letter describing the case);
3. Order, entered January 2, 2015 (holding "the case has been pending for months and it does not appear that [Plaintiff's] counsel is currently in a position to pursue it. If counsel is not sufficiently able to do so prior to the adjourned conference date, he must consider whether he can effectively represent his client in this matter or whether plaintiff needs to obtain new counsel");
4. Order, entered February 2, 2015 ("the Court remains concerned as to whether counsel can effectively represent his client if he cannot get to court" by wheelchair in incumbent weather);

5. Minute Entry and Order for Initial Status Conference, entered February 2, 2015 (“Plaintiff to provide the Court . . . with a copy of the recording of the parties’ telephone conversation. . . parties are directed to appear for a Status Conference . . . on 2/11/15.”);
6. Order, entered February 10, 2015 (“The telephone Status Conference scheduled for 2/11/2015 is cancelled”);
7. Order to show cause, entered February 11, 2015 (“Plaintiff and his attorney are Ordered to Show Cause by 2/18/15 why this action should not be dismissed, with fees costs awarded under 15:1692k(a)(3), and sanctions issued pursuant to Rule 11”);
8. Order, entered February 17, 2015 (“counsel had requested a telephone conference and therefore no record was made of the conference”);
9. Memorandum Decision And Order, entered May 1, 2015 (denying motion for recusal and related relief, and “sanctioning plaintiff’s attorney for failing to participate in the Initial Status Conference in good faith as required by Rule 16”);
10. Order, entered November 10, 2016 (granting sanctions and fees);
11. Order, entered December 23, 2016 (awarding fees); and
12. Any subsequent order or judgment this Court enters into this case.

Dated: Brooklyn, NY
December 30, 2016

Respectfully submitted,

POLTORAK PC

By: /s/ Elie C. Poltorak

Appellant Pro-Se

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